

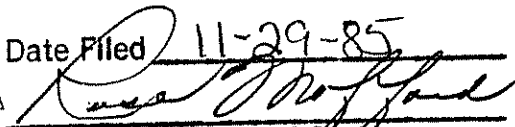
INTERGOVERNMENTAL MAINTENANCE AGREEMENT JPA-85-12

BETWEEN

THE STATE OF ARIZONA

AND

THE CITY OF SIERRA VISTA

A.G. CONTRACT NO. 85-631	
NO. <u>10792</u>	
FILED WITH SECRETARY OF STATE	
Date Filed	<u>11-29-85</u>
	
Secretary of State	

THIS AGREEMENT, entered into pursuant to Arizona Revised Statutes Section 11-951 through 11-954, as amended, by and between the STATE OF ARIZONA acting by and through the ARIZONA DEPARTMENT OF TRANSPORTATION, hereinafter called "STATE", and the CITY OF SIERRA VISTA, a municipal corporation hereinafter called "CITY".

WHEREAS, the STATE is empowered by Arizona Revised Statutes Section 28-108 to enter into this Agreement and the Director of the Arizona Department of Transportation has delegated to the undersigned his authorization to execute this Agreement on behalf of the STATE;

WHEREAS, the CITY is empowered by Arizona Revised Statutes Section 9-672, to enter into this Agreement, and acting by and through its duly elected governing body, has by that certain resolution attached hereto and incorporated herein as Exhibit "A" resolved to enter into this Agreement and has authorized the undersigned as its representative to execute the same on behalf of said CITY.

Attached to this Agreement and incorporated herein by reference as Exhibit "B" is a copy of the written determination of the appropriate attorney that the CITY is authorized under the law of this State to enter into this Agreement and that it is in proper form.

WHEREAS, it is the mutual benefit of the STATE and the CITY to enter into an agreement covering the maintenance of certain State Highways known as SR 90 and SR 92, which are State Highways of the STATE OF ARIZONA and which traverse the said CITY OF SIERRA VISTA

over those certain streets which form the necessary and convenient links for the connection of sections of the aforesaid State Highways and for carrying of such State Highways through said City, as more particularly set forth upon the map attached hereto and marked Exhibit "C", and by reference made a part hereof.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter to be kept by all parties, it is mutually agreed as follows:

1. The CITY shall set aside sufficient funds to accomplish the maintenance responsibilities set forth in this agreement.
2. The STATE shall set aside sufficient funds to accomplish the maintenance and betterment responsibilities within the CITY as set forth by this agreement.
3. That the STATE, acting by and through its Department of Transportation shall, except as otherwise expressly provided in this agreement, have jurisdiction and control over and be responsible for the maintenance and any needed betterments of the highways as delineated upon the map attached hereto and marked Exhibit "C" said jurisdiction, control and responsibility to include but not be limited to:
  - a. Betterment of reconstruction of roadway; curbs, sidewalks, medians and channelization.
  - b. Bridges and drainage.
  - c. Guardrails and fences.
  - d. Transportation permits, such as overweight, overwidth, and overheight as prescribed by law.

- e. Routine maintenance of roadway, median and curb.
  - f. Removal of snow, sand, rock and other debris caused by slide or other causes.
  - g. Traffic control devices, including approved crosswalks, signs, striping and curb marking (except street name).
4. That the CITY shall, except as otherwise expressly provided in this agreement have jurisdiction and control over routine maintenance of:
- a. Sidewalks
  - b. Sprinkling.
  - c. Street name signs.
  - d. Routine sweeping and cleaning of roadway, curb and median.
  - e. Parking signs.
  - f. Bike paths.
  - g. Frontage roads.
  - h. Permits for highway rights of way encroachments and use. Forms to be used for these permits will be furnished by the STATE (A.D.O.T. 22-5101 R6'77) A copy of each permit issued shall be sent to the STATE (P.O.Box 711, Safford, AZ) with a sketch showing the exact location of the encroachment. A copy of said form is attached hereto and incorporated herein as Exhibit "D", and by reference made a part hereof;
- Pipes, conduit or other utilities shall be jacked or bored beneath paved areas. Pavement cuts shall be considered only when jacking, boring or other

alternatives are proven impractical and then only when approved by the Area Engineer.

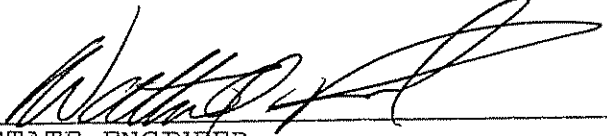
5. Electrical devices, including but not limited to traffic signals and intersection lighting, will be covered by separate agreement and will be governed by that agreement.
6. Upon the annexation of any area by the CITY which is traversed by any STATE highway, that length of such highway which is within the annexation boundaries shall become subject to the terms of this Agreement, and the CITY shall furnish the STATE a revised map indicating the portions of STATE's highway affected, which map shall be incorporated herein as an ammendment to this Agreement.
7. Recognizing that the CITY may feel it to their best interests to renew pavement striping oftener than the STATE's standard six-month schedule, the CITY may accomplished this work at their expense. It is understood that no changes will be made without the STATE's approval.
8. That the CITY shall not allow snow, sand, rocks or other hazardous debris to be dozed or swept onto State Highways, except as might occur temporarily during normal maintenance of intersecting streets.
9. That the regulations as set forth on the "Authorized Position of Advertising Signs Along State Highway Right of Way" shall be adhered to as a minimum by the CITY. A copy of said regulations is attached hereto and and marked Exhibit "D", and by reference made a part hereof.

10. That the CITY shall furnish adequate evidence of full liability and property damage insurance on all employees engaged in performing duties heretofore agreed to on the State Highway right of way. The CITY will maintain the insurance for the period of this agreement. A copy of the policy is attached hereto and marked Exhibit "E" and by reference made a part hereof.
11. That the CITY will provide traffic control in accordance with the Arizona Department of Transportation Traffic Control Manual for Highway Construction and Maintenance during all maintenance operations by the CITY on the State Highway right of way.
12. All work performed under the provisions of this Agreement shall be performed in a manner satisfactory to the Department of Transportation.
13. It is understood that this Agreement will cancel and supersede any previous Agreements for street maintenance, and betterment on those State Highways which traverse within the boundaries of the CITY.
14. This Agreement shall be filed with the Secretary of State and shall become effective on the 1st day of *Dec., 1985*, but in no event prior to its being filed with the Secretary of State.
15. It is understood that this Agreement may be amended, or supplemented, by mutual consent of the parties hereto at any time with all other conditions set forth remaining in effect.

16. This Agreement shall remain in force and effect until midnight, *Nov. 30, 1990*, and shall thereafter be automatically renewed for successive periods of one (1) year, unless either party shall give notice in writing to the other not less than one (1) month nor more than three(3) months prior to the initial expiration date, or of any renewal date hereof, cancelling said Agreement. In event of such notification and upon expiration of the term during which notice is given, this Agreement shall thereupon become of no further force and effect.
17. It is understood that upon the termination of this Agreement for any cause whatsoever, all properties which are subject matter of this Agreement are declared to be property of the Arizona Department of Transportation.
18. Any disposal of properties subject to this Agreement shall be in a manner as otherwise prescribed by law concerning the disposal of public property.
19. All parties are hereby put on notice that this Agreement is subject to cancellation by the Governor pursuant to Arizona Revised Statutes Section 38-511.

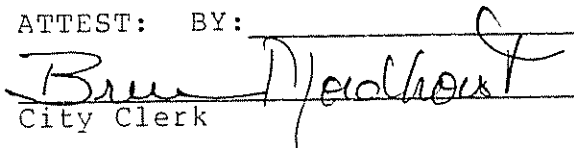
IN WITNESS WHEREOF, the parties have executed this Agreement  
the day and year first written above.

STATE OF ARIZONA  
Arizona Department of Transportation

BY:   
STATE ENGINEER

CITY OF SIERRA VISTA

ATTEST: BY:

  
City Clerk

BY: 

TITLE: JEAN RANDLE - MAYOR

1 RELIANCE INSURANCE COMPANY  
Philadelphia, Pennsylvania

2 PLANET INSURANCE COMPANY  
Home Office — Madison, Wisconsin  
Administrative Offices — Philadelphia, Pennsylvania

6 UNITED PACIFIC INSURANCE COMPANY  
Head Office — Federal Way, Washington



2 Coverage is provided in the Company designated by Number  
Each is a Stock Insurance Company herein called the Company

EXHIBIT "E"

KC ~~XOX~~ 7047179

## Comprehensive Insurance Policy

AGENCY  
CODE: 69-4975

Named  
Insured CITY OF SIERRA VISTA

Named  
Insured's Address 2400 EAST TACOMA  
SIERRA VISTA, ARIZONA 85635

In Consideration of  
the Required Premium  
and Provisions  
of This  
Comprehensive Insurance Policy,  
the Company  
Does Insure  
the Interest of:

The Named  
Insured is: ☐ Individual ☐ Partnership ☐ Corporation ☐ Joint Venture ☒ Other PUBLIC ENTITY

Period From JUNE 30, 1985  
of  
Insurance To JUNE 30, 1986  
12:01 a.m. Standard Time at  
Named Insured's Address

Deposit  
Premium \$ 142,534.00

The deposit premium shown on this policy is for an annual period. The annual deposit premium for subsequent years shall be determined based upon the rates in effect at the anniversary date.

Audit Period: ☐ Annual ☐ Semi-Annual ☐ Quarterly ☐ Monthly

THIS POLICY IS MADE AND ACCEPTED SUBJECT TO all the conditions which are hereby specifically referred to and made a part of this policy, together with such other provisions, agreements or conditions as may be endorsed hereon or added hereto; and no officer, agent or other representative of the Company shall have power to waive or be deemed to have waived any provision or condition of this policy unless such waiver, if any, shall be written upon or attached hereto, nor shall any privilege or permission affecting the insurance under this policy exist or be claimed by the Named Insured unless so written or attached.

If this policy replaces a continuous policy previously issued by this Company, the Insured, by acceptance of this policy gives notice to the Company to cancel policy no. \_\_\_\_\_, such termination or cancellation to become effective at the time this policy becomes effective, with premium adjustment, if any, on a pro-rata basis.

IN WITNESS WHEREOF, THE COMPANY has caused this policy to be signed by its President and Secretary, but it shall not be valid unless countersigned by a duly authorized representative of the Company.

Reliance Insurance Company

Planet Insurance Company

*United Pacific*

Secretary

*Anthony*

President

United Pacific Insurance Company

*United Pacific*

Secretary

*William A. Reed*

President

*United Pacific*

Secretary

*Macchie*

President

Countersigned

*Steven E. Reed*

Authorized Representative



RESOLUTION

Be it resolved on this date, November 26, 1985, I, CHARLES L. MILLER, the below undersigned Director, Department of Transportation, have determined that it is to be to the advantage of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, and the CITY OF SIERRA VISTA, acting by and through its CITY COUNCIL, enter into the Intergovernmental Agency agreement for the purpose of entering in a maintenance agreement for certain highways which traverse the CITY OF SIERRA VISTA, and request the CITY to perform certain work and supply necessary materials required to maintain the specified highways in the manner specified in the attached agreement, and I hereby authorize the Assistant Director, Highways Division to execute said Agreement.


  
\_\_\_\_\_  
CHARLES L. MILLER, Director  
Department of Transportation

EXHIBIT "A"

RESOLUTION 1642

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA, AFFIRMING SETTLED POLICY, APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF SIERRA VISTA AND THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR ROUTINE STREET MAINTENANCE OF CERTAIN STATE ROUTES WITHIN THE CITY OF SIERRA VISTA, AND AUTHORIZING AND DIRECTING THE CITY MANAGER, CITY CLERK, CITY ATTORNEY OR THEIR DULY AUTHORIZED OFFICERS AND AGENTS TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, the City of Sierra Vista has expressed concern to the Arizona Department of Transportation regarding the performance of routine street maintenance more frequently than the State's six-month schedule on those portions of State Routes 90 and 92 within the City; and

WHEREAS, the State is unable to perform routine street maintenance more frequently than their six-month schedule and has offered, to the City, an Intergovernmental Agreement, attached hereto as Exhibit "A", which would allow the City to perform routine street maintenance on State routes within the City when it is deemed to be in the City's best interest to do so; and

WHEREAS, THE City and the State, pursuant to A.R.S. §11-951 through §11-954 are empowered to enter into agreements for joint or cooperative action; and

WHEREAS, it is settled policy of the City Council, most recently affirmed by Resolution 1526, to contract with other governmental agencies to perform services whenever it is determined to be in the best interest of the citizens of Sierra Vista to not duplicate the ability to perform the service; and

WHEREAS, it is of mutual benefit to the City and the State to enter into an Intergovernmental Agreement to perform routine street maintenance on those portions of State Routes 90 and 92 within the City.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, AS FOLLOWS:

SECTION 1

That the settled policy, most recently affirmed by Resolution 1526, be, and hereby is, reaffirmed.

SECTION 2

That the proposed Intergovernmental Agreement, attached hereto as Exhibit "A", between the City of Sierra Vista and the Arizona Department of Transportation, providing for the routine maintenance of those portions of State Routes 90 and 92 within the City, all portions specified in said agreement, be, and hereby is, approved.


SECTION 3

That the City Manager, City Clerk, City Attorney or their duly authorized officers and agents are hereby authorized and directed to take all steps necessary to carry out the purposes and intent of this resolution.


PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, THIS 26th DAY OF SEPTEMBER, 1985.

  
JEAN RANDLE  
Mayor

ATTEST:

  
BRUCE A. MORDHORST  
City Clerk

APPROVED AS TO FORM:

  
FAUVER & TILL  
City Attorney

PREPARED BY:

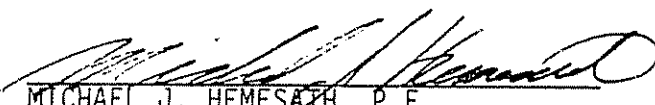
  
MICHAEL J. HEMESATH, P.E.  
City Engineer

EXHIBIT "B"

DETERMINATION

The Office of the City Attorney of Sierra Vista, Arizona has determined that the City of Sierra Vista is authorized under the laws of the State of Arizona to enter into that agreement entitled Intergovernmental Maintenance Agreement between the State of Arizona and the City of Sierra Vista, Arizona, which Agreement was authorized at the City Council meeting of September 26, 1985 and by Resolution No. 1642.

CITY OF SIERRA VISTA, ARIZONA

OFFICE OF THE CITY ATTORNEY

By

  
City Attorney



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert K. Corbin

INTERGOVERNMENTAL AGREEMENT

DETERMINATION

A. G. Contract No. 85-631, which is an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 6<sup>th</sup> day of November, 1985.

ROBERT K. CORBIN  
Attorney General

*Albert Moyan*  
Assistant Attorney General  
Transportation Division

**APPLICATION FOR PERMIT TO USE STATE HIGHWAY RIGHT OF WAY**  
(Print or Type)

Application is hereby made for a permit to enter in upon and use a portion of the State Highway.

Name of Owner \_\_\_\_\_

Address of Owner \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Name of Applicant \_\_\_\_\_ Legal Relationship to Owner \_\_\_\_\_

Mailing Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_

Signature of Applicant \_\_\_\_\_

*(Applicant and Owner are responsible for conditions on permit)*

City (in or near) \_\_\_\_\_ Project No. \_\_\_\_\_

Highway Route No. \_\_\_\_\_ Approximately \_\_\_\_\_ Feet \_\_\_\_\_ of Milepost No. \_\_\_\_\_  
*Direction*

Side of Highway N S E W (circle one) Highway Station \_\_\_\_\_

Purpose \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**FOR DEPARTMENTAL USE ONLY**

THIS APPLICATION is approved with the following directions, requirements and specifications:

EXHIBIT "D"

<b>Company Numbers</b> 1 = Reliance Insurance Company 2 = Planet Insurance Company 6 = United Pacific Insurance Company 8 = Reliance Insurance Co. of Illinois	If this endorsement is issued concurrently with the policy, the Attaching Clause need not be completed. Endt. No.		
	Issued by Co. No.	Effective Date	Insured:
		6/30/85	SIERRA VIS. CITY OF
	Premium subject to audit <input type="checkbox"/>	Attached to and forming part of Policy No. KC 704 7179	Countersigned by (Authorized Representative)
			Additional Premium \$
			Return Premium \$
All terms and conditions of the policy remain unchanged except as amended by this endorsement.			Unearned Premium Factor

## COMPREHENSIVE INSURANCE POLICY DECLARATIONS SUPPLEMENT

The insurance afforded by this policy is only with respect to those Sections designated by ☒ , subject to all the terms of this policy having reference thereto. For applicable limits of liability see appropriate Section.

### ☒ SECTION IA PROPERTY

For Forms Applicable see: CI 1102

### ☒ SECTION IB INLAND MARINE

For Forms Applicable see: CI 1202

### ☒ SECTION II COMPREHENSIVE GENERAL LIABILITY

For Forms Applicable see: CI 2002

### ☒ SECTION III CRIME

For Forms Applicable see: CI 3002

### ☐ SECTION IV BOILER AND MACHINERY

For Forms Applicable see: CI 4002

### ☒ SECTION V ☒ MOTOR VEHICLE ☐ GARAGE

For Forms Applicable see: CI 5002

### ☐ SECTION VI STANDARD WORKMEN'S COMPENSATION & EMPLOYERS' LIABILITY POLICY

For Forms Applicable see: CI 6002

### ☐ SECTION VII EXCESS-UMBRELLA LIABILITY

For Forms Applicable see: CI 7002

<b>Company Numbers</b> 1 = Reliance Insurance Company 2 = Planet Insurance Company 6 = United Pacific Insurance Company 8 = Reliance Insurance Co of Illinois		If this endorsement is issued concurrently with the policy, the Attaching Clause need not be completed		Endt No
Issued Co No	Effective Date 6/30/85	Insured SIERRA VI , CITY OF		Additional Premium \$
<input type="checkbox"/> Premium subject to audit	Attached to and forming part of Policy No. KC 704 7179	Countersigned by (Authorized Representative)		Return Premium \$
All terms and conditions of the policy remain unchanged except as amended by this endorsement.				Unearned Premium Factor

**COMPREHENSIVE INSURANCE POLICY**  
**SECTION IA — PROPERTY**  
**FORMS SCHEDULE**

The Liability of the Company is subject to the terms and conditions of the following forms attached to and forming a part of Section IA.

CI 1103	ED. 2/81	SCHEDULE OF LOCATIONS
CI 1106	ED. 2/81	PHYSICAL DAMAGE TO AND LOSS OF USE OF PROPERTY - ALL RISK FORM
CI 1110	ED. 2/81	BLANKET INSURANCE ENDORSEMENT
CI 1172	ED. 6/81	STANDARD FORM FIRE POLICY ENDORSEMENT
ML 1650		LOSS LIMIT ENDORSEMENT
SJP-1		ADDITIONAL DEFINITION OF BUILDINGS
SJP-2		REPLACEMENT COST AMENDMENT



<b>Company Numbers</b> 1 - Reliance Insurance Company 2 - Planet Insurance Company 6 - United Pacific Insurance Company 8 - Reliance Insurance Co. of Illinois	If this endorsement is issued concurrently with the policy, the Attaching Clause need not be completed.			Endt. No.	
	Issued	No	Effective Date	Insured	Additional Premium
			6/30/85	SIERRA VISTA, CITY OF	\$
	Premium subject to audit	Attached to and forming part of Policy No		Countersigned by (Authorized Representative)	Return Premium
	<input type="checkbox"/>	KC 704 7179			\$
All terms and conditions of the policy remain unchanged except as amended by this endorsement.					Unearned Premium Factor

**COMPREHENSIVE INSURANCE POLICY**  
**SECTION IA**  
**PROPERTY**  
**SCHEDULE OF LOCATIONS**

LOCATION	LOCATION	LOCATION
AS PER STATEMENT OF VALUES ON FILE WITH THE COMPANY		

Coverage applies only where a Limit of Liability is shown.  
 Unless otherwise shown beneath the applicable limit of liability:

(1) Perils insured against for all locations shall be as provided in CI 1106 for coverages A, B  
 as provided in \_\_\_\_\_ for coverages \_\_\_\_\_

(2) Valuation clause applicable for all locations shall be Number I for Buildings, Number I for Personal Property.

Location Number, Building Number				AS PER STATEMENT OF VALUES ON FILE WITH THE COMPANY		
Occupancy				MUNICIPALITY		
Protective Safeguard Clause(s) Applicable						
Coverage	Co-Insurance	Automatic Increase in Insurance	Deductible	Limits of Liability		
A. Building	N/A		1,000.	AS PER ML1650		
B. Personal Property <input type="checkbox"/> Excludes property of others <input type="checkbox"/> Excludes stock <input type="checkbox"/> Reporting	N/A		1,000.	INCL.		
Stock <input type="checkbox"/> Reporting						
C. Additional Expenses						
D. Loss of Rents	Contribution					
E. Gross Earnings <input type="checkbox"/> Excluding ordinary payroll <input type="checkbox"/> Limited ordinary payroll						
F. Loss of Earnings	Each 30 Days					
	Aggregate					

POLICY NUMBER KC 704 7179	EFFECTIVE DATE 6/30/85	NAMED INSURED SIERRA VISTA, CITY OF
------------------------------	---------------------------	--

**COMPREHENSIVE INSURANCE POLICY  
EXCESS MUNICIPAL LIABILITY**

**SCHEDULE**

**Item 1. Limit of Liability**

Per Occurrence \$ 990,000.

Annual Aggregate \$ 990,000. (Applicable to Products and Completed Operations  
Hazards and Errors and Omissions)

**Item 2. Named Insured's Retentions**

Per Occurrence \$ 10,000.

Annual Aggregate \$ NOT APPLICABLE

**Item 3. Underlying Coverage**

Company

Policy Number NOT APPLICABLE

Coverage

Limits

**Item 4. Premium** \$ INCL.

Countersigned By \_\_\_\_\_  
Authorized Representative

**FOLLOWING FORM EXCESS POLICY  
DECLARATIONS**

**KR 6 70 59 71**  
**KR 670 5782**

Renewal of



- 1 RELIANCE INSURANCE COMPANY**  
Philadelphia, Pennsylvania
- 6 UNITED PACIFIC INSURANCE COMPANY**  
Federal Way, Washington
- 2 PLANET INSURANCE COMPANY**  
Home Office—Sun Prairie, Wisconsin  
Administrative Offices—Philadelphia, Pennsylvania
- 8 RELIANCE INSURANCE COMPANY OF ILLINOIS**  
Home Office—Rolling Meadows, Illinois  
Administrative Offices—Philadelphia, Pennsylvania

**2**

Coverage is provided in the Company designated by Number. Each is a Stock Insurance Company, herein called the Company.

**Item 1. Named Insured and Address: (No., Street, Town, County, State, Zip)**

**CITY OF SIERRA VISTA**  
**2400 EAST TACOMA**  
**SIERRA VISTA, ARIZONA 85635**

**Agency Code, Name and Address**

**69-5001**

**FRED S. JAMES & COMPANY**  
**1414 WEST BROADWAY, SUITE 200**  
**TEMPE, ARIZONA 85282**

**Item 2. Policy Period**

**From: JUNE 30, 1985 To: JUNE 30, 1986**  
12:01 A.M., standard time at the address of the named insured as stated herein.

**Item 3. Underlying Insurance**

Policy Number	Insurer	Coverage	Limits of Liability
KC 704 7179	PLANET INSURANCE COMPANY	COMPREHENSIVE GENERAL LIABILITY AND AUTOMOBILE LIABILITY INCLUDING MUNICIPAL ERRORS AND OMISSIONS LIABILITY.	\$990,000. XS 10,000. SIR
6/30/85-6/30/86			

**Item 4. Controlling Insurance**

Policy Number	Insurer	Coverage	Limits of Liability
KC 704 7179	PLANET INSURANCE COMPANY	AS PER ABOVE	\$990,000. CSL PER OCCURRENCE AND IN THE ANNUAL AGGREGATE WHERE APPLICABLE EXCESS OF \$10,000. SIR.
6/30/85-6/30/86			

**Item 5. Description of Following Form Excess Policy**

Coverage	Limits of Liability
FOLLOWING FORM EXCESS COMPREHENSIVE GENERAL LIABILITY AND AUTOMOBILE LIABILITY INCLUDING MUNICIPAL ERRORS AND OMISSIONS LIABILITY.	\$4,000,000. CSL PER OCCURRENCE AND IN THE ANNUAL AGGREGATE WHERE APPLICABLE EXCESS OF ITEM 4 ABOVE.

**Item 6. Premium for Following Form Excess Policy**

**\$22,068.00 FLAT ANNUAL**

**ATTACHING: RUM #104 (5/85), END'TS #1,2**

Countersigned this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ by \_\_\_\_\_

*Steven E. Bach*  
Authorized Representative

The Insurance Company indicated in the Declarations, hereafter called "Company", agrees with the Insured named in the Declarations made a part hereof, in consideration of the payment of the premium and in reliance upon the statements in the Declarations and subject to the limits of liability, exclusions, conditions and other terms of this policy:

### **PART I—INSURING AGREEMENT**

The Company shall indemnify the Insured for each Ultimate Net Loss arising out of an accident, claim or occurrence, subject to the limits of liability and other terms of this policy.

### **PART II—DEFINITIONS**

1. "Controlling Insurance" means the policy described in Item 4 of the Declarations.
2. "Costs" means interest on judgments, investigation, adjustment and legal expenses, but shall not include expenses for salaried employees, retained counsel, office expenses of the Insured, or claim expenses pertaining to any self-insured retention.
3. "Underlying Insurance" means the policies described in Items 3 and 4 of the Declarations.
4. "Ultimate Net Loss" means the sums which the Insured is legally obligated to pay as a result of any one accident, claim or occurrence, and which are covered by the Controlling Insurance, less realized recoveries and salvage. Ultimate Net Loss shall include Costs.

### **PART III—EXCLUSIONS**

Notwithstanding anything contained herein to the contrary, this policy shall not cover any loss or damage:

1. Directly or indirectly occasioned by, happening through or in consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalization or requisition or destruction of or damage to property by or under the order of any government or public or local authority;
2. Arising out of the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any water course or body of water; but this exclusion does not apply if such discharge, dispersal, release or escape is sudden and accidental. This provision shall not apply in New Hampshire.

### **PART IV—AGGREGATE LIMITS OF LIABILITY**

#### **1. Reduction of the Aggregate**

This section applies only if this policy contains an aggregate limit of liability.

(a) If the Underlying Insurance is cancelled or the limits are reduced (for reasons other than the exhaustion of an aggregate limit of liability) then this policy shall apply as if the limits of liability stated in the Declarations are still in effect.

(b) If the limits of liability of the Underlying Insurance are less than as stated in Items 3 and 4 in the Declarations because the aggregate limits of liability of the Underlying Insurance have been reduced, this policy shall become excess of such reduced limit of liability if such reduction is solely the result of claims paid pursuant to such Underlying Insurance. Nothing contained herein shall operate to increase the limits of the Company's liability.

#### **2. Application of the Aggregate to Separate Projects**

To the extent that the aggregate limits of liability of the Controlling Insurance apply separately to the various operations, projects, locations, hazards or types of injury, the aggregate limits of liability of this policy likewise apply separately to such operations, projects, locations, hazards or types of injury.

### **PART V—CONDITIONS**

#### **1. Underlying Insurance—Changes during this Policy Period**

Any change in coverage in the Underlying Insurance shall be promptly reported to the Company and the Insured shall, upon request, furnish the Company with copies of such changes. Any change in the premium for the Underlying Insurance shall be promptly reported to the Company and the premium for this policy, subject to the minimum premium, may be adjusted accordingly.

#### **2. Notice of Loss**

The Insured shall immediately advise the Company or any of its authorized agents, as soon as reasonably possible, of any occurrence which appears likely to result in liability under this policy and of subsequent developments likely to affect the Company's liability hereunder. At no time shall the Company be called upon to assume charge of the settlement or defense of any claims made or suits brought or proceedings instituted against the Insured, but the Company shall have the right and shall be given the opportunity to associate with the Insured or its underlying insurer or insurers, or both, in the control, defense and/or trial of any claims, suits or proceedings which, in the opinion of the Company, involves or appears reasonably likely to involve the Company. If the Company avails itself of such right and opportunity, the Insured, any underlying insurer or insurers and the Company shall cooperate in the control, defense and/or trial of such claims, suits or proceedings, so as to affect a final determination thereof. Failure on the part of the Insured or the underlying insurer or insurers to cooperate shall relieve the Company, at its option, of liability under this policy.

#### **3. Action Against Company**

No action shall lie against the Company unless, as a condition precedent thereto, the Insured shall have fully complied with all the terms of this policy.

Any person or organization or the legal representative thereof who has secured a judgment against the Insured shall thereafter be entitled to recover under this policy to the extent of the insurance afforded by this policy. Nothing contained in this policy shall give any person or organization any right to join the Company as a co-defendant in any action against the Insured to determine the Insured's liability. Any payments by the Company under this section shall discharge the Company's obligation to the Insured to the extent of such payments.

Bankruptcy or insolvency of the Insured or of the Insured's estate shall not relieve the Company of any of its obligations hereunder.

contained herein shall operate to increase the limits of the Company's liability.

#### 4. Subrogation

In the event of any payment under this policy, the Company shall be subrogated to all the Insured's rights of recovery therefore against any person or organization and the Insured shall execute and deliver instruments and papers to do whatever else is necessary to secure such rights. The Insured shall do nothing after the occurrence to prejudice such rights.

Because this policy affords excess coverage, the Insured's right of recovery cannot always be exclusively subrogated to the Company. It is, therefore, agreed that the Company shall act in concert with all other interests concerned, including the Insured, in the enforcement of any subrogation rights or in the recovery of amounts by any other means. The apportioning of any amounts so recovered shall follow in the principle that any interest, including the Insured, that shall have paid an amount over and above any payments under this policy shall first be reimbursed up to the amount paid by such interest; the Company shall then be reimbursed out of any balance then remaining up to the amounts paid as the result of loss covered under this policy; and lastly, the interests, including the Insured, of whom this coverage is in excess are entitled to claim any residue remaining. Expenses and costs necessary to the recovery of any such amounts shall be apportioned between the interest concerned, including the Insured, in the ratio of their respective recoveries or in the event of a totally unsuccessful attempt to recover, in the ratio of the respective amounts sought to be recovered.

#### 5. Other Insurance

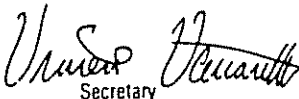

If, with respect to a loss covered hereunder, the Insured has other insurance which applies to a loss on the same basis as this policy, the Company shall not be liable for a greater proportion of such loss than the applicable limits of liability under this policy for such loss bears to the total applicable limits of liability of all valid and collectible insurance against such loss. This provision does not apply with respect to the Underlying Insurance or excess insurance purchased specifically to be in excess of this policy.

#### 6. Cancellation



This policy may be cancelled by the Insured by mailing to the Company written notice stating when thereafter the cancellation shall be effective. This policy may be cancelled by the Company by mailing written notice to the last known address of the Named Insured. The Company shall provide not less than 30 days notice of cancellation, however, 10 days notice may be given for cancellation due to nonpayment of premium. The mailing of notice as aforesaid shall be sufficient proof of notice. The effective date of cancellation stated in the notice shall become the end of the policy period. If the Company cancels, earned premium or minimum premium, whichever is greater, shall be computed pro rata. If the Insured cancels the minimum premium, or earned premium, whichever is greater, shall be calculated as 90% of pro rata. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

IN WITNESS WHEREOF, the Company has caused this policy to be signed by its President and by its Secretary, but the same shall not be binding upon the Company unless countersigned by an authorized representative of the Company.

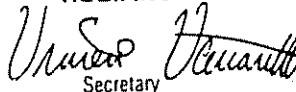
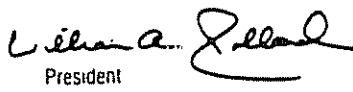
UNITED PACIFIC INSURANCE COMPANY

 Secretary  
 President

RELIANCE INSURANCE COMPANY

 Secretary  
 President

PLANET INSURANCE COMPANY  
RELIANCE INSURANCE COMPANY OF ILLINOIS

 Secretary  
 President

#### NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT (BROAD FORM)

It is agreed that:

1. This policy does not apply:

a. under any liability coverage, to bodily injury or property damage:

- (1) with respect to which an Insured under this policy is also an Insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be insured under any such policy but for its termination upon exhaustion of its limit of liability; or
- (2) resulting from the hazardous properties of nuclear material and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the Insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or agency thereof, with any person or organization.

b. under any Medical Payments Coverage, or under any Supplementary Payments provision relating to first aid or expenses incurred with respect to bodily injury resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.